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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,892	06/24/2003	Eiju Katsuragi	29284/591	7532
7590	02/28/2005			EXAMINER
KENYON & KENYON Suite 700 1500 K Street, N.W. Washington, DC 20005			BRAGDON, REGINALD GLENWOOD	
			ART UNIT	PAPER NUMBER
			2188	

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/601,892	KATSURAGI ET AL.	
Examiner	<b>Art Unit</b>		
Reginald G. Bragdon	2188		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 24 JUN 03, 06 & 23 FEB 03, and 06 MAY 03.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-30 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-30 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 24 June 2003 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All   b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. 08/974,535.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

**DETAILED ACTION**

***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 08/974,535, filed on 19 November 1997.

***Information Disclosure Statement***

2. The Information Disclosure Statements received 24 June 2003, 06 February 2004, and 06 May 2004 have been considered. Please see the attached PTO-1449s.
3. The Information Disclosure Statement received 23 February 2004 has not been considered since it does not appear that the PTO-1449 submitted by Applicant corresponds to the present application. While the transmittal letter sent with the IDS contains the correct information for the present application, the actual PTO-1449 contains information (serial number, filing date, inventor, attorney docket number, and art unit) for another case.

***Drawings***

4. The drawings filed on 24 June 2003 have been approved by the Examiner.

***Specification***

5. The abstract of the disclosure is objected to because it contains more than 150 words. Correction is required. See MPEP § 608.01(b).

6. Applicant is requested to update any data (continuation serial number, patent number, etc...) concerning co-pending or related applications listed in the specification.

The status of the parent applications on page 1 should be updated as appropriate.

### ***Claim Objections***

7. Claims 2-4 and 17 are objected to because of the following informalities:

As per claim 2, line 20, "sai d" should be --said--.

As per claim 17, line 8, "ata" should be --data--.

All dependent claims are objected to as having the same deficiencies as the claims they depend from.

Appropriate correction is required.

### ***Double Patenting***

8. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

9. Claims 1-5 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-6 of prior U.S. Patent No. 6,269,424. This is a double patenting rejection.

Claims 1-4 correspond to claims 1-4 of the '424 patent, respectively.

Claim 5 corresponds to the combination of claims 5-6 (where claim 6 directly depends from claim 5) of the '424 patent.

10. Claims 6-13 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 4-12 of prior U.S. Patent No. 6,463,505. This is a double patenting rejection.

Claims 6-11 correspond to claims 4-9 of the '505 patent, respectively.

Claim 12 corresponds to the combination of claims 10-11 (where claim 11 directly depends from claim 10) of the '505 patent.

Claim 13 corresponds to claim 12 of the '505 patent.

11. Claims 14-30 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-20 of prior U.S. Patent No. 6,604,172. This is a double patenting rejection.

Claims 14-27 correspond to claims 1-2, 6-14, and 3-5 of the '172 patent, respectively.

Claim 28 corresponds to the combination of claims 15-18 (where claim 18 directly depends from claim 17, which directly depends from claim 16, which directly depends from claim 15) of the '172 patent.

Claims 29-30 correspond to claims 19-20 of the '172 patent.

### ***Conclusion***

12. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

All "OFFICIAL" patent application related correspondence transmitted by FAX must be directed to the central FAX number at **(703) 872-9306**:

"INFORMAL" or "DRAFT" FAX communications may be sent to the Examiner at **(571) 273-4204**, only after approval by the Examiner.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Fourth Floor (receptionist).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald G. Bragdon whose telephone number is (571) 272-4204. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 4:30 PM and every other Friday from 7:00 AM to 3:30 PM.

The examiner's supervisor, Mano Padmanabhan, can be reached at (571) 272-4210.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

RGB  
February 26, 2005

*Reginald G. Bragdon*

Reginald G. Bragdon  
Primary Patent Examiner  
Art Unit 2188